D.B. CIVIL SPECIAL APPEAL (WRIT) NO.324/2007

Mukhram **Vs.** 1. Shyokaran
2. Dayanand
3. The District Election Officer,
Sri Ganganagar
4. The Civil Judge (SD) & Election Tribunal, Suratgarh.

Date : 21.09.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE SANGEET LODHA

Mr. K.R. Saran for the appellant.

The appellant is seeking a direction that the record which has been called for by the learned Single Judge vide order dated 5.10.2006 be returned to the trial court where the election petition is pending. He points out that the learned Single Judge has stayed only further proceedings pursuant to charge sheet (Annex.5) and no stay is operating against the further proceedings of the election petition which is pending before the Election Tribunal and the same order has been affirmed by the learned Single Judge on 2.2.2007.

We are of the opinion that if the learned Single Judge has called for the record for the purpose of considering the writ petition filed by the respondents and the trial is held up without there being any interim order for staying the further proceedings in the trial court, the appropriate course for the appellant is to make request before the learned Single Judge either to expedite the hearing of the writ petition or return the record of the trial court, if the same is not required for the hearing of the writ petition in near future so that the election petition can be proceeded further.

Subject to above, the appeal is disposed off.

[SANGEET LODHA], J. [RAJESH BALIA], J.

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